LYDDANE • PATENTS: THEIR VALUE

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PATENTS

THEIR VALUE

TO THE INVENTOR

TO THE PUBLIC

TO THE NATION

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PREFACE.

The writer having observed the dearth of information on the subject of patents in the literature of attorneys and solicitors, decided to present, in condensed form, a treatise which will inform the reader of the nature, purpose and value of the patent grant on inventions. While any intention to question the veracity or integrity of my professional brethren is disclaimed, it is nevertheless a lamentable fact that the booklets and other literature of many patent solicitors is devoted almost entirely to the painting of rosy word pictures which will presumably blossom into realities if the inventor employs that particular solicitor to obtain his patent. The reader will search in vain for any information of real value relative to the operation of the patent laws and the benefits which may be derived therefrom by procuring the grant of full and complete protection on an invention under these laws.

In the following pages, the effort has been made to avoid technical and legal expressions wherever possible, and to render the subject entirely clear to the average reader by the use of simple and easily understood phrases. The object in view is to place in the hands of the inventor information which will enable him to determine many questions that will present themselves with regard to the advisability of obtaining a patent on his invention without seeking the assistance of a patent lawyer or solicitor. If this end has been attained, the writer will feel well repaid in the knowledge that his efforts have not been altogether fruitless.

The writer, being a practitioner in patent law, offers his services to inventors and prospective patentees. Therefore, an addendum will be found in the form of a personal talk with the reader wherein is set forth the qualifications of the writer as well as his methods of doing business, which he has found most conducive to satisfactory results. Careful perusal thereof is suggested.

M. C. LYDDANE, Washington, D. C., 1917.

Patents---Their Value

To the Inventor To the Public To the Nation

It is, of course, essential, in order that the average reader may appreciate the value of the patent grant issued by the United States on new inventions, that he shall first understand the purpose of the patent laws, and, in a general way, the manner of their operation. It may, therefore, be stated that the patent laws of the United States have, for their fundamental purpose, the promotion of the arts and sciences. These laws have been enacted and revised by Congress from time to time in accordance with the express provision of Article I, Sec. 8, of the United States Constitution, which is to the effect that the Congress shall have power to promote the progress of the useful arts by granting for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

It is thus apparent that the purpose in view is to obtain from the inventor a disclosure of his invention, and as the consideration for such disclosure he is granted an absolute monopoly of the invention for the term specified in the patent grant. To the end that the interests of the public shall be fully protected, and also that the patentee may obtain adequate redress for an infringement of his patent rights, Congress has, at different times, enacted certain laws, and it is under these laws, as interpreted by the courts, that the patentee's right of monopoly under the grant is limited or defined. Now, it is to be borne in mind that before the grant of a patent the inventor has absolutely no right to his invention. That is, he has no property right in

the thing, be it an article, machine, process, or a composition of matter. It is entirely optional with the inventor whether or not he will make a disclosure of his invention, which is requisite to the grant of a patent. If he decides to keep it secret, he may do so, but if others obtain knowledge of the invention, they may use the same or sell it to others, and the inventor would have no redress. And it is also to be remembered that such concealment, and delay in disclosing the invention to the public by filing an application in the Patent Office, may result in the inventor forever losing the right to a patent, and this right, which is the only form of a monopoly protected by governmental grant, may be vested in another, who, as a matter of fact, was not the first inventor of the subject matter disclosed by the issued patent.

A patent is, therefore, documentary evidence of the grant made by the Government in compliance with laws enacted by Congress. In making the grant the Government acts in behalf of the public, who is one party to the contract, while the applicant is the other party thereto. The Commissioner of Patents, who is the executive head of the Patent Office, and the assistants under his supervisory authority are the machinery provided by Congress for the purpose of enforcing the proper observance of the patent laws. The public will thus obtain from the applicant for patent such a full, clear and concise disclosure of the invention as will enable those skilled in the particular art to which it relates to make, use and sell the invention at the expiration of the term for which the patent is granted. Anything less than such a complete disclosure would be an inadequate consideration for the monopoly granted to the patentee, so that such monopoly would not be enforcible, and the patent would be void.

Now, it is, of course, frequently necessary, in order that a complete disclosure of the invented thing may be made, to include in the application reference to various parts that are old and which do not comprise any part of the particular invention for which a patent is solicited. Therefore, in addition to the description of the several parts of the invention, the manner in which they are assembled or related to each other, and the operation thereof, it is required that the applicant shall then distinctly point out and claim the part or parts which he considers to be his invention. This requirement is made so that the new invention may be clearly distinguished from those parts which may be illustrated in the drawings of the application and referred to in the description solely for the purpose of showing how the invention is to be used, and the results to be accomplished thereby. By this means the public may readily distinguish between the old things before referred to in the patent and those features which are claimed by the patentee to be new and which the public cannot make, use or sell without first obtaining a license from the patentee.

It is quite apparent that, in order for the interests of the inventor to be fully protected by the patent when granted, the application should be very carefully prepared by one having a thorough understanding of the principles of patent law, and the manner in which these laws have, from time to time, been construed by the Federal Courts. Also, after the application has been filed in the Patent Office, its skilful prosecution is essential. The patent lawyer must act in a dual capacity, as it is he who prepares in the first instance the contract between the applicant and the public, and he must therefore, in his observance of the law, see that the public's interest is subserved by a complete disclosure of the invention; and, secondly, he must act in

the presentation of the claims in behalf of his client, and draw such claims with the greatest care and skill to the end that nothing of the real invention disclosed by the application shall be omitted, and his client's exclusive right thereto sacrificed. It is a fundamental principle of patent law that every feature of the invention which is not covered by the claims of the patent, although such features may be fully described in the specification, is conclusively presumed to have been dedicated to the public. And the patentee cannot excuse such neglect to fully claim the invention by the plea that it was due to the incompetence of his attorney or solicitor. The reader will thus at once appreciate the fact that the claims are the essential feature of the patent grant. In other words, as was stated by the Supreme Court of the United States, the claims prescribe and limit the right of the patentee, and they can neither be expanded nor enlarged, nor narrowed beyond their plain terms, by reference to the descriptive portion of the specification. While reference may be had to the description to explain or interpret the claims when the latter are ambiguous, the claims themselves must stand alone in ascertaining what the exact thing is that the patentee claims as his invention.

It is impossible to emphasize too strongly the reason for the inventor proceeding with the greatest care in the filing of his application. The application consists of the petition to the Commissioner of Patents, the specification and claims, the oath, a drawing prepared strictly in accordance with certain rules of the Patent Office, and a filing fee to the Government of $15.00. It is not necessary to actually construct and operate the invention, nor indeed, even to make a model thereof. If it can be clearly seen from an examination of the drawing submitted that the device would operate if constructed as described, then the requirement of the law has

been satisfied. It is only when the operativeness of the invention is questioned that it is necessary to furnish a model.

Each of the component parts of the application must of course comply in every respect with the rules as prescribed by the Commissioner of Patents. After the application in proper form has been filed, it is assigned to a particular division of the Patent Office. There are at present forty-three (43) examining divisions. The application will be assigned to one of the Examiners in the division who is an expert in the particular line of invention to which the application relates. The Examiner carefully considers all parts of the application as presented, to see that the rules of the Patent Office and patent laws have been complied with. If the case contains omissions or informalities, the applicant or his attorney is advised thereof. If, however, the application as presented contains a sufficient disclosure of the invention to enable its construction and manner of operation to be understood, the Examiner will also act upon the merits of the claims presented at the same time, and, after having made a thorough search through all prior patents in the same line of invention, he will make such citations therefrom against the individual claims as may appear to him to be pertinent. Now, the question of just what constitutes patentable invention is a matter of opinion, and the Courts themselves in similar cases have asserted contrary views. It is, therefore, not strange that the Patent Office Examiners should err in their conclusions regarding the patentability of claims presented. It is in such instances that the skill of the patent lawyer is of paramount importance. If the applicant has selected as his attorney a skilled practitioner in patent law, who has made a thorough study of its principles, and the application of such principles as announced by the Courts, he will be fully pre-

pared to combat the Examiner's views, and sustain his own opinion that the invention as claimed is patentable. The final decision of such a question may require frequent argument and re-argument, but it is only by means of such careful and skilful prosecution of the application in the Patent Office, that the inventor's interest will be fully protected by the patent when granted. After the prosecution of the application has been concluded and the attorney is satisfied that the claims, which have been allowed, cover every feature of patentable novelty disclosed in the application, the official notice of allowance will be issued. The inventor is then required to pay into the Patent Office the sum of $20.00 within six months from the date of this notice, and if this final Government fee is not paid within such time, the application will become forfeited. It may, however, be renewed at any time within two years from the date of the official notice of allowance by the payment of a new Government filing fee of $15.00. In the renewal of such forfeited application, it is not necessary to file entirely new application papers and drawing.

The foregoing describes the usual course of procedure in connection with an ordinary application in the Patent Office, and assuming that the inventor has exercised the proper care in the selection of his attorney, and that a patent properly covering the invention has been granted, we will now turn our attention, to the value of this patent.

First—TO THE INVENTOR.

The reader has, no doubt, often heard it asserted that patents lead to law suits, or that the inventor seldom realizes any financial return from his patent. Such cases, however, are the exception and not the rule. If the invention is practical, capable of manufacture at reasonable cost, and has a fairly large field of usefulness, there is no apparent reason why such a patent should not be sold or otherwise disposed of at a profit to the inventor. It must be remembered in this connection that the sale of patent rights, like the sale of any other species of property, requires the exercise of judgment and discretion. It is also often said that, as the patent is simply for an improvement, and large corporations hold prior patents in connection with which the improvement patent must be used, if the corporation will not purchase the patentee's rights, the patent is worthless. If the improvement which has been made, is a real improvement, no difficulty will be experienced in interesting the corporation in the patented invention. As was stated by the Supreme Court of the United States: "In the law of patents, it is the last step that wins." It is not at all uncommon for very simple inventions to bring large pecuniary rewards to the successful inventors. In this connection mention may be made of Howe's invention of the sewing machine needle for which he received $40,000. By providing an eye in the needle point he made the modern sewing machine a reality.

Most of the present-day inventions, which have reached a high state of perfection, would not be recognized as the invention of the original patent. For instance, the telephone, the automobile, or the locomotive, as we know them today are the result of the inventions of many different minds, covered by separate and distinct patents. Therefore, the inventor who has simply made an improvement upon an already existing machine or other article, need not despair of realizing a recompense from the exercise of his inventive faculties, providing of course that the improvement is a sufficient advance in the construction of the prior device to warrant its adoption. It is to be remembered that the patented invention is the absolute property of the patentee, and that once having established the value of such

invention in the particular art to which it relates, he is in position to dictate his own terms to the manufacturer desiring to market the invention. Under the patent laws, the inventor may even go so far as to refuse to sell his invention at any price, refuse to manufacture it himself, or to grant a license for such manufacture, for by such refusal he only suppresses that which he owns. In other words, for the period of seventeen (17) years for which the patent is granted, the public faith is pledged and the patentee's exclusive right to make, use and vend the invention cannot be invaded.

The importance of this will be appreciated by the reader when it is stated that, if a manufacturer is marketing a certain article, and he makes an improvement upon such article which greatly increases its usefulness, he may patent such improvement and yet refuse to manufacture the improved article since it may be to his interests to continue the manufacture of the original device in which there would be greater profit. He would thus have anticipated the making of such an improvement by his competitors so that his established trade would not be affected. Thus the inventor, if he happens to be a manufacturer, is in a very advantageous position.

The value of the patent, of course, depends entirely upon the scope and validity of the claims which have been secured. If, under the claims of the patent, the patentee is not limited to the precise form or construction of the detail parts of his invention, and such claims are valid, then, providing the above noted conditions exist, a reasonable sum could be expected for the privilege of manufacturing the invention on a royalty basis or for the sale of the complete right, title and interest in the patented invention. Many inventors make the mistake of placing too great a monetary value upon their inventions, and while they have undoubtedly pro-

duced an article of a desirable character, and one which marks a distinct advance in the art, they fail to dispose of their patent rights because they will not accept reasonable terms. The inventor should remember that a manufacturer negotiating for the purchase of a patent bears all the expense of marketing the device, which may require financial outlay for new machinery, employees, and advertisement, and that in order for him to realize a fair profit on his investment within a reasonable time, he must obtain the patent or a license to manufacture thereunder upon such terms as are equitable to both parties. The writer firmly believes that if the patentee would approach the question of the disposal of his patent rights with these considerations in mind, he would find less difficulty in realizing financial returns from the exercise of his inventive genius.

Second—TO THE PUBLIC.

As pointed out in the first paragraph of this booklet, the patent laws of the United States were enacted primarily in the interest of the public, or, as stated in the Constitution "to promote the progress of the useful arts," which, of course, is ultimately beneficial to the public. The incentive given to invention by the hope of reward from the limited monopoly of a patent is responsible for such wonderful inventions as the locomotive, the electric light, the automobile, the telephone, the typewriter, the gas engine, wireless telegraphy, linotype machines, flying machines, and a great many epoch marking inventions too numerous to mention. The monopolies on many of such patented inventions having expired, the public is now entitled to the free and unrestricted use thereof, and the individual may, if he has the necessary implements or machinery, manufacture and use any of such patented inventions

without contribution to the patentee. Such expired patents which are now open to the free use of the public, constitute an inexhaustible source of practical information upon which many of the most important industries of the country are founded. The reader will thus see that were it not for the holding out to the inventor by means of the patent monopoly, the hope of financial reward from the exercise of his inventive genius, there would be no incentive for a disclosure of the invention, and the world would therefore not have arrived at its present high state of industrial development.

The public receives a direct benefit in the supply of necessities and luxuries at prices which would otherwise be impossible. Consider for a moment the marvelous improvements in farm machinery during the present generation. Without such aids in the harvesting of the wheat crop alone, the additional expense would be half a billion dollars. So in every one of the industrial arts, labor saving machinery, the product of inventive ingenuity, has resulted in the increased ease, comfort and prosperity of the public.

Now, of course, the purpose of our Legislators in requiring, as a requisite to the grant of a patent monopoly, that the written description of the invention should be in such full, clear, concise and exact terms as to enable any person to make, construct, compound, or use the same, was that the public, after having refrained from using the invention for a period of seventeen (17) years should be in position, if it desired to do so, to unrestrictedly manufacture the device as shown in the patent. Therefore, the object of the specification or description of the invention is, first, to apprize the public of the nature of such invention, and to enable the public to distinguish between the new invention and what is old in the same art: secondly, to enable the Courts, when they are called upon to do so, to

properly construe the patent; and finally, to inform competing manufacturers of exactly what they are bound to avoid. From these considerations, it is believed that the reader will agree with the writer that the remuneration or recompense which the inventor may obtain from the exercise of his inventive genius during the term of the patent monopoly is far outweighed by the more selfish interests of the public. After the patent expires, the inventor's monopoly is at an end, and this and all future generations fall heir to the benefits which the patentee has conferred upon the public.

Third—TO THE NATION.

And finally we are to consider the value of patented inventions to the nation. Such value cannot be measured in dollars and cents. It has been estimated that 85 per cent. of the industrial wealth of the United States is either directly or indirectly attributable to the patent laws, and the incentive which they offer to the inventor for a disclosure of his invention.

Since the first patent laws were enacted in 1790, the United States has led the world in the granting of patents. American inventors have not only paid every expense incurred in the operation of the patent system but they have paid into the United States Treasury a surplus of over seven and one-half million dollars. This enormous sum, however, pales into insignificance when the indirect benefits of the inventive genius of our citizens is considered. The wealth of the Nation is measured by the state of its industrial development. Such establishments, for instance, as the General Electric Company, The Westinghouse Air Brake Company, The Pullman Car Company, the United Shoe Machinery Company, and other similar corporations were founded upon patent monopolies. The enormous volume of trade between this country and foreign countries is

likewise due primarily to the existence of the patent laws. In times of war, as well as of peace, the Nation is strengthened by the inventions of its citizens. The perfection of different mechanical contrivances required in the development of the military and naval establishments of the Government can be safely left in the hands of the inventors. Victor Hugo once said: "There is one thing that is stronger than armies and that is AN IDEA WHOSE TIME HAS COME." Our strength as a Nation, financially, industrially, and as a world power of the first rank, will be determined in the future, as it has been in the past, by the contributions to the arts and sciences made by the inventors. Therefore, the inventor owes a duty to the Nation, as well as to the public, and to himself, which cannot be lightly evaded. One who has made a valuable invention, but who, for reasons personal to himself, refuses to disclose the nature thereof, not only injures his own interests by so doing but also fails in his duty as a citizen. The Nation is interested in a very vital way in every invention which will, to any degree promote the public health, safety and comfort, or increase the prestige of the Nation with the other Nations of the world. The writer would, therefore, suggest that the inventor should seek the earliest opportunity to disclose his invention by the filing of an application in the Patent Office. Not only will he thereby the sooner reap the benefits of the Government's monopoly grant, but he will have conferred a lasting benefit upon the public and also increase, to some extent at least, the debt which the Nation owes to its inventors.

PERSONAL.

I would first remind the reader that the value of every patent in the last analysis, is determined entirely by the legal skill expended in the preparation and prosecution of the application. The Supreme Court of the United States has said that there is no legal document which requires greater technical and legal knowledge in its preparation than an application for patent. Therefore, it is quite manifest that such a matter cannot be safely entrusted to the care of incompetent and inexperienced persons. Every matter of this character, in any way relating to the interpretation or application of the patent laws, receives my personal attention, and is not turned over to subordinate employees.

I have been identified with the patent branch of the legal profession since 1899, and for the past eight years have been associated with a prominent local patent law firm. For this reason, the reader will not find this booklet half filled with "testimonials." I am a member of the bars of the Supreme Court and Court of Appeals of the District of Columbia, and the degrees of Bachelor of Laws, Master of Laws, and Master of Patent Law have been conferred upon me by the National University of Washington, D. C. I also completed a two-year course in mechanical engineering at Columbian University (now George Washington). I have prepared and prosecuted several thousand patent applications, which included inventions in every one of the various industrial arts. The inventor is therefore fully assured if he places his case in my hands, that his application will not only be carefully and accurately prepared, but it will likewise be prosecuted with the highest degree of legal skill, to the end that the patent when finally procured will contain claims of the very broadest possible scope that could be obtained in view of the state of the art,

and that every novel feature of the invention will thereby be adequately protected against possible infringement.

COST OF PATENTING AN INVENTION

To the majority of inventors, the financial outlay incident to patenting an invention is more or less a serious question. In this connection, however, I would impress upon the reader that thoroughness and not cheapness should be the controlling thought, in deciding as to the best course to adopt. I am not in competition with those attorneys who solicit business on the basis of a minimum fee. It should be apparent to the person of average intelligence, that no application for patent, no matter how simple the invention may be, can be prepared and prosecuted to the best interests of the applicant, unless the attorney receives a fee which is reasonably commensurate with the time and skill employed in surmounting the difficulties that may be encountered. I have therefore made it a rule of my practice to never fix the attorney fee in advance of a disclosure of the invention to be patented for the client. It is obvious that in many cases no accurate determination of the character of the invention can be arrived at merely from a statement of what the invention is, unless such statement is accompanied by a description of its construction. The inventor will appreciate the fact that the attorney fee cannot, of course, be the same in every case because some inventions will require but little time and work in order to obtain the patent, while others of a more intricate character will require skilled legal service by the attorney for a relatively long period of time. Therefore, in order to avoid any statement as to the attorney fee which might be at all misleading, I suggest that the inventor first submit to me sketches and a

description of his invention. After carefully considering the same, in connection with the particular art to which the invention relates, I will then advise him as to the amount of the attorney fee. After once fixing this fee, **IT WILL NOT BE INCREASED FOR ANY REASON WHATEVER,** providing, of course that the description and sketches which are furnished and upon which the fee is based, are complete in every particular.

In addition to the attorney fee, the drawings, if necessary, cost $5.00 per sheet. I employ only the most skilful draftsmen, as the drawings must be prepared strictly in accordance with the rules of the Patent Office. The draftsman is instructed in every case to use the minimum number of sheets necessary in order to fully illustrate every essential feature of the invention.

The Government fees amount to $35.00, $15.00 of which must be paid into the Patent Office when the application is filed. The other $20.00, which is the final Government fee, may be paid at any time within a period of six months after the application has been officially allowed, and the inventor is notified thereof. These Government fees are the same in every case, no matter how simple or how intricate the invention may be.

The first step in procuring a patent is to make a thorough examination of the Patent Office records to determine whether or not the invention has been anticipated by others. When I receive from the inventor, either a sketch or model of his invention, accompanied by such a description of its construction and use as he can give, together with a remittance of $5.00, **THIS PRELIMINARY EXAMINATION IS PROMPTLY MADE, AND IT IS THOROUGH IN EVERY RESPECT.** Upon the result of this search, I base my opinion as to the patentability of the invention. Every opinion is accompanied by copies of patents which may be

found showing similar inventions. No attorney, no matter how experienced he may be, can state simply from a consideration of the construction of the invention whether or not it is patentable. Such opinion to be reliable must be based upon the result of an actual examination of the records. If I report the invention patentable, and the inventor decides to proceed with the application, the $5.00 paid for the search is applied on the attorney fee. If, however, it is found that the invention is not patentable, then the inventor has only expended the sum of $5.00, and he has saved the far larger sum which the filing of an application without first making the examination would have involved.

It is not necessary for the inventor to go to any expense in having a model made of his invention by a model-maker, but it will suffice for the purpose of procuring the patent if he will himself prepare, as best he can, large pencil sketches of the invention which will clearly show all the details, and then write out a brief description of the operation and advantages of the device. Or, if they can be conveniently procured, clear photographs may be furnished. If the inventor desires to do so, he may himself make a model from such materials as he may have at hand, if he can by such means clearly disclose the construction so that it may be readily understood.

The Commissioner of Patents has stated that as the value of patents depends largely upon the care and skill with which the specification and claims are prepared, too much care cannot be exercised in the selection of competent counsel. The inventor should, therefore, make such selection only after mature deliberation. He should seek the services of a **PATENT LAWYER** in preference to a **COMPANY** or one who is merely an agent. The patent lawyer is not only a registered attorney, but he is also versed in the principles of patent law, and other application to individual cases. If the inventor

desires absolute protection on every feature of novelty, which his case may present, so that he will be amply protected against possible infringement, he should select the skilled patent lawyer to obtain his patent.

There is also a material advantage in enlisting the services of a patent lawyer located at Washington. My office is situated directly opposite the United States Patent Office, and **IN MANY CASES, FAR BETTER RESULTS CAN BE ACHIEVED BY PERSONAL ORAL INTERVIEWS WITH THE EXAMINERS THAN BY CORRESPONDENCE.** All cases entrusted to my care, are given such attention and the Examiner in charge of the case is personally interviewed by me, and the merits of the invention orally presented, if it appears to me to be advisable in the interests of my client to proceed in this manner. Attorneys located outside of Washington, must necessarily act through an associate, who, of course, must receive his fee. **THE INVENTOR WILL, THEREFORE, AS A MATTER OF FACT, PAY TWO ATTORNEY FEES FOR OBTAINING A PATENT ON ONE INVENTION.** By placing your case in my hands, you are assured of the most skilled service, for which a fee is charged to cover the actual work performed in the interests of my client. There will be no delays either in replying to letters requesting information, or in the prosecution of the application. I would remind the reader, however, that the question is not "how quickly may the patent be procured," but "how strongly may the invention be protected." It is never advisable to sacrifice thoroughness to speed, and this is especially true in procuring a patent. Nevertheless, I endeavor to expedite the prosecution of the case in every possible way consistent with the complete protection of the invention.

As before stated, I do not solicit business on the basis of cheap service. In other words, I do not conduct "no patent, no pay" and similar schemes, but I do, in a manner not approached by any other patent lawyer, guarantee the carefulness and thoroughness of my preliminary examination of the records upon which the report as to patentability is based. **IF I REPORT YOUR INVENTION PATENTABLE AND THE APPLICATION IS FILED THROUGH MY OFFICE, SHOULD THE APPLICATION BE FINALLY REJECTED BY THE EXAMINER IN CHARGE OF THE CASE ON PRIOR U. S. PATENTS, I WILL FILE AND PROSECUTE AN APPEAL FROM SUCH ADVERSE DECISION ENTIRELY AT MY OWN EXPENSE.** The question of the patentability of an invention is largely a matter of opinion, and the application of patent law principles to specific cases. The primary Examiners to whom applications are first assigned, quite frequently err in their conclusions, and, I have in numerous cases had such erroneous decisions by the primary Examiners reversed upon appeal. For prosecuting such an appeal, the fee is usually from $35.00 to $100.00, depending upon the nature of the case. When the inventor is given a favorable opinion as to patentability and he pays the attorney his fee, the inventor naturally expects to receive a patent. He does not anticipate failure, and the mere return of the attorney fee does not relieve his disappointment. Of course, I would not obligate myself to assume the expense of taking this appeal, if I was not thoroughly satisfied that the invention is patentable, and the inventor is thus insured against a hasty and incomplete preliminary examination of the records. That class of attorneys who guarantee a patent or the return of the fee, are always hampered by a great number of hopeless cases in which they will purposely delay action in the hope that the patience

of the inventor will finally be worn out, and, in disgust, he will abandon all hope of either receiving a patent or the return of his money. Again, in their anxiety to receive the fee as soon as possible, after a single claim has been allowed, all of the remaining claims may be immediately canceled, and the allowance obtained on such single claim, which may entirely fail to protect in full measure, the novel features of the invention.

If the invention has merit, and it is protected as it should be by a patent, the patentee should have no difficulty in disposing of his patent rights, but no matter how meritorious an invention may be, if it is not fully protected by the patent claims, the patent cannot be sold at any price, as such a patent is merely an invitation to infringers, and would involve the patentee or other holder in expensive litigation. It is believed that from the above statement of my methods of doing business, the reader will conclude that he will obtain the greatest measure of safety and protection on his invention by enlisting my services to procure his patent.

PROMPT PROCEDURE NECESSARY.

It is vitally important to the interests of the inventor that he file his application in the Patent Office at the very earliest possible date after the completion of the invention. A long delay may be fatal. If the inventor is lacking in diligence and sleeps upon his rights, should another independent inventor file an application for patent on the same invention, he, and not the actual first inventor is, in the eyes of the law, entitled to a decision of priority.

I am not a patent broker. My time is devoted exclusively to the practice of patent law, and I do not undertake to sell patents. I am, however, at all times entirely ready and willing to assist my clients with advice and information relative to the

disposal of their patent rights, and will prepare all necessary assignments, licenses, contracts, and other agreements which may be required. Those attorneys who undertake to sell patents after they have been obtained, do not make a real bona fide effort to obtain a purchaser. Their endeavors usually extend to merely submitting copies of the patent to manufacturers, or placing a short advertisement in some publication. It is a very rare occurrence when success attends such methods. Of course, if the invention is impractical, or not fully protected by the patent, any time and money invested in the attempt to sell such a patent, is simply wasted. On the other hand, if the invention is practical, capable of manufacture at reasonable cost, and is in demand, then the patent, if it fully protects all patentable features of the invention, is saleable. The patentee would have no difficulty in interesting manufacturers in such an invention, but the manufacturer usually requires a demonstration of the operation of the device, or that the necessary drawings and estimates shall be furnished upon which calculations may be based as to the manufacturing cost and margin of profit which can be expected when the invention is marketed and sold. I cannot, however, devote the time necessary to the preparation of such material, without a sacrifice of time which should be employed in the prosecution of applications entrusted to my care. I would therefore suggest that after procuring the patent, the patentee should submit the same to a reliable broker, after having one of the devices constructed for demonstration purposes, which is the least expensive manner of selling the patented invention or enlisting financial aid for the purpose of manufacturing the same.

DIFFICULT AND REJECTED CASES.

If the inventor has undertaken to prosecute his own application, or the application has been placed in the hands of an incompetent attorney and repeatedly rejected, I will be glad to assume the further prosecution of such cases. I have succeeded in securing patents in many cases where other attorneys have failed. I also especially solicit cases of peculiar difficulty, and those relating to highly complicated inventions. My fees in such cases are based strictly in accordance with the character of the service to be rendered, and are very reasonable.

REISSUE, EXTENSION, REPEAL.

A patent may be reissued when the original patent is inoperative or invalid by reason of a defective or insufficient specification due to inadvertence, accident or mistake, and without any fraudulent or deceptive intention. In other words, when the original patent does not protect everything to which the inventor is rightfully entitled, or when he has claimed more than he actually invented, the patent may be reissued. Application for the reissue must be promptly filed, and the original patent surrendered. The reissued patent runs for the balance of the term of the original patent. If you have a patent and are not sure that it fully covers and protects the invention, I will be glad to consider the patent with a view to obtaining a reissue thereof.

Patents can be extended beyond the term for which they are granted only by a special act of Congress.

Patents can be repealed only by judicial decree upon a suit instituted by the United States. A very strong showing of fraud in procuring the patent is necessary to sustain the action, and as it is usually very difficult to prove that the patentee was guilty of actual fraud, the repeal of patents is seldom attempted.

COMPOUNDS.

Letters Patent are granted upon new compounds involving the relation of medicinal, mineral or chemical ingredients. Such for instance, as proprietary medicines, salves, ointments, polishing compounds, abrasive compounds, food compounds, cements, and the like. In sending a description of an improved compound, the inventor should state clearly and definitely the relative proportions in which the several ingredients are used, and the particular purpose of each ingredient. In addition he should fully set forth the manner of preparing, mixing, or compounding together the several ingredients, and finally the manner in which the product resulting from such mixture is to be applied or used.

DESIGNS.

Design patents are granted for terms of 3½, 7 or 14 years at the election of the applicant. The patentability of a design is based upon its ornamental characteristics and not upon its mechanical utility. In other words, the only fact to be considered is whether or not the article appeals to the esthetic sense of the observer, and is sufficiently different in its configuration or surface ornamentation from prior patented devices to involve inventive ingenuity. Such design patents are frequently of great value. The total cost of a design patent for the 3½ year term is $35.00, for 7 years $40.00, and for 14 years $55.00. These fees include all Government fees, and the entire attorney fee as well as the cost of the drawing.

PRINTS AND LABELS.

Under the copyright laws, prints and labels are registrable in the Patent Office. A label is an artistic production applied directly to a commercial commodity, or the container in which it is vended, such label containing a pictorial representation of the goods or other fanciful design and such advertising matter as the producer desires to place thereon. A print differs from a label in that it is not applied directly to the article itself, but is used as a sign or poster for advertising purposes. The entire cost of registering a print or label in the Patent Office is $20.00, which includes the Government fee of $6.00 and attorney fee of $14.00. The law requires that ten copies of the print or label shall be filed with the application.

TRADE-MARKS.

A trade-mark is an arbitrary or fanciful name, sign, or other symbol denoting origin. Its purpose is to mark out or distinguish the product of one manufacturer from similar products of other manufacturers. In other words, a trade-mark gives individuality to the manufactured article in the eyes of the public. Many trade-marks have become enormously valuable, and have resulted in the development of certain manufactured products and the sale thereof in immense quantities. Among others may be mentioned such trade-marks as Sozodont, Uneeda Biscuit, Cuticura, Eureka, Star Soap, and Coca-Cola which have attained wide-spread popularity. A trade-mark, to be registrable, must not be descriptive either of the quality or the character of the particular goods to which it is applied.

Trade-marks are granted for a term of 20 years and the law requires that five fac-similes of the mark shall be filed with the application. I especial-

ly solicit trade-mark cases, and will also be glad to assist in the selection and adoption of appropriate trade-marks. The total cost of registering a trade-mark is $30.00, which covers all attorney fees, the Government fee and the cost of the drawing. The value of a unique trade-mark in familiarizing the public with an article of merit cannot be overestimated. By this means, compounds, medicines, and other commercial products, which do not involve invention, may be protected against imitation by competitors. Under the law, any near simulation of the adopted mark by a competitor is not only an infringement upon such mark, if registered, but also constitutes unfair competition in trade.

COPYRIGHTS.

Under the present copyright law, copyright registration can be obtained by citizens of the United States and also citizens or subjects of such foreign countries as afford reciprocal privileges to citizens of this country. Books, lectures, addresses, dramatic compositions, periodicals or contributions to periodicals and newspapers, photographs, prints, works of art, motion picture photoplays and motion pictures, and similar literary or artistic productions are copyrightable. Musical and dramatic compositions can be copyrighted in advance of their publication. Books, and other similar literary productions must, however, first be printed and bound within the United States before they can be copyrighted. It is required that two complete copies of the best edition shall be filed with the application, and these copies must contain the copyright notice. I obtain the registration of copyrights at a total cost of $15.00. The term of the copyright is 28 years, with the privilege of renewing the same within one year before the expiration of the previous term. Account ledgers, and other printed or ruled books employed

in business systems, are not copyrightable nor can a title or name be copyrighted.

"PATENT PENDING."

It is a practice commonly adopted by manufacturers to market inventions before the issuance of a patent. In such case each machine or article is suitably labelled or stamped "patent pending," or "patent applied for." This is done as a warning to competitors, and as a deterent to possible imitators. Such a stamping or marking of the article is equivalent to a written notice, though it is usual and advisable to give such written notice before the filing of a suit for infringement. Thus the invention is protected even while the application is pending in the Patent Office. It should be borne in mind, however, that this stamp cannot be legitimately used unless an application for patent has been actually filed, and if so wrongfully used, the manufacturer may be fined and imprisoned.

INTERFERENCES AND INFRINGEMENT SUITS.

It is not an uncommon occurrence for two or more inventors to file applications for patents on the same invention, and the question then to be decided is, which one of these rival inventors is to receive a patent. In such cases, an interference is declared by the Patent Office and testimony is taken on behalf of each party to establish priority of invention. The procedure in such cases is governed by the rules of the Courts of equity, and only a patent lawyer of skill and experience can properly conduct the examination and cross-examination of witnesses to the end that the interests of his client may be properly subserved. It is also sometimes necessary to prosecute an appeal to the

Commissioner of Patents or from his adverse decision to the Court of Appeals of the District of Columbia. I fully advise my clients in every instance as to the expense involved in the conduct of such interferences or appeals, and the reasons why in my opinion they should be diligently prosecuted.

I also prosecute or defend patent infringement suits in the Federal Courts, and offer my services in connection with such cases to manufacturers and inventors. This particular branch of law, requires special knowledge of the technicalities and rules of procedure to be observed, and is usually beyond the scope of the general practitioner, who has not given the subject particular consideration.

QUALITY VS. SPEED.

Those who are unfamiliar with the patent practice usually desire to know the length of time which will elapse after the application is filed before the patent is issued. No definite estimate can be made, since this will depend largely upon the number of new applications awaiting action in the particular division to which the application will be assigned in the Patent Office. The cases are taken up for action in chronological order, reference being had to the date of filing. Some divisions of the Patent Office may be nearly up to date with their work, while others may be from three to six months behind. I make it a point, however, to promptly respond to all communications from the Patent Office, and to expedite the prosecution of the application in every possible way. At the same time, I do not propose to obtain an early issue of the patent at a sacrifice of claims which would be sufficiently comprehensive in scope to completely protect the novel features of the invention. In other words, quality should be considered before speed. Therefore, I will never permit an application filed

through my office to go to issue, until I am fully convinced, that I have succeeded in obtaining the allowance of the very best possible claims in view of such prior patents as may be cited by the Examiner.

FOREIGN PATENTS.

The period of six months is allowed within which to pay the final Government fee in this country, for the purpose of giving sufficient time for the inventor to file his foreign applications before the United States patent issues, as in most of the foreign countries a valid patent cannot be obtained if the patent issues in this country within one year from its date of filing. I will be glad to quote terms upon request for procuring patents in the various foreign countries. I believe it to be advisable, if the invention is one of merit, to procure a Canadian patent thereon, and if possible have such Canadian patent issue at the same time as the United States patent. The total cost of obtaining a patent in Canada for a term of six years is only $50.00, which includes all Government fees, the attorney fee and the cost of the drawings. If desired, such patent may be extended for two additional terms of six years each by the payment of the Government fee of $20.00 for each term.

In conclusion, I desire to assure the reader that I will promptly and willingly respond to all requests for further information or advice in connection with the patenting of his invention. There is every indication that the coming years will give birth to even greater improvements in the industrial arts than have been evolved by the inventors to the present time.

"The successful inventor not only makes hay while the sun shines—he makes it from the grass that other people let grow under their feet."—THOMAS A. EDISON.